

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3358-06
Bill No.: Perfected SCS for SB 631
Subject: Education, Elementary and Secondary; Teachers; Elementary and Secondary
Education Department; Children and Minors; Highway Patrol; Social Services
Department
Type: Original
Date: April 15, 2010

Bill Summary: This proposal creates the Amy Hestir Student Protection Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$7,042,675)	(\$4,014,668)	(\$4,135,107)
Total Estimated Net Effect on General Revenue Fund	(\$7,042,675)	(\$4,014,668)	(\$4,135,107)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds			

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 22 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Federal Funds	(\$2,335,550)	(\$1,477,137)	(\$1,521,452)
Total Estimated Net Effect on <u>All</u> Federal Funds	(\$2,335,550)	(\$1,477,137)	(\$1,521,452)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	70.29	70.29	70.29
Federal Funds	25.65	25.65	25.65
Total Estimated Net Effect on FTE	95.94	95.94	95.94

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** state this proposal will have no fiscal impact on the Courts.

Officials from the **Office of the State Auditor, Department of Mental Health, Office of State Public Defender, Department of Public Safety - Highway Patrol** and the **Department of Labor and Industrial Relations** each state this proposed legislation will have no fiscal impact on their respective agencies.

Officials from the **Office of Administration - Administrative Hearing Commission** state this proposed legislation will not significantly alter its caseload.

Officials from the **Office of Administration - Office of Child Advocate** state existing funds will be used for additional duties associated with this proposal.

In response to a previous version of this proposal, officials from the **Office of Prosecution Services (OPS)** stated the proposal will have no measurable fiscal impact on OPS or county prosecutors.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY 2009 average \$16.04 per inmate,

ASSUMPTION (continued)

per day or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of

Probation and Parole (FY 2009 average \$3.71 per offender, per day or an annual cost of \$1,354 per offender). Supervision by the DOC through probation or incarceration would result in some additional costs, but DOC officials assume that the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of the Attorney General (AGO)** identify three provisions in this proposal that may result in additional costs to AGO:

Section 162.068.3 requires that, if a school employee provides certain information regarding personnel information of a fellow employee (presumably to a potential employer), the AGO would represent the employee providing the information in the event that employee is sued for providing it. Because AGO cannot project the number of cases that could be generated from this provision, AGO assumes that costs would be unknown but under \$100,000 per year, but if there is a significant increase in claims over time, the AGO may seek appropriations to adequately enforce the proposal.

Section 168.071 provides some additional crimes which, if committed by a licensed teacher, would subject the teacher to automatic license revocation. Because the AGO handles these revocation cases before DESE, AGO assumes that this amended section could generate additional cases in the event a licensee commits one of the newly enumerated crimes. AGO assumes that any costs associated with this provision could be absorbed within existing resources, but if there is a significant increase in claims over time, the AGO may seek appropriation to adequately enforce the proposal.

ASSUMPTION (continued)

§168.133 - Background checks

In response to a previous version of this proposal, officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** stated that MHP already assesses fees for the state and federal criminal background check under §168.133. The proposed legislation in §168.133 mandates checks through the Family Care Safety Registry (FCSR). Since a fee is already collected for the fingerprint checks, the additional \$9 fee (\$10 beginning March 1st) for the initial registration for the FCSR is a duplicate fee and unnecessary. The cost for new applicants' background checks, pursuant to §168.133, has been analyzed in previous fiscal notes in past years. It is recommended to waive the FCSR fee for those applicants required for a criminal background check and Family Care Safety Registry check in §168.133.

Officials from the **Department of Health and Senior Services** concur with the MHP recommendation of waiver of FCSR fee.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume, if a student, who has filed a complaint of sexual abuse against a teacher, feels that they can no longer attend school where that teacher is teaching, then the resident school district would have to contract with another school or school district for that student to attend. DESE may direct the student's ADA be counted in the receiving district resulting in the state money following the student. There may be some increased cost to the resident district even though DESE could have the money follow the student. This should not increase the cost to the state. The student would also be viewed as a resident student for activity purposes.

DESE assumes there might be some increased time by school employees to meet the provisions of this bill. **Oversight** assumes, based on responses from school districts, that costs would be minimal and could be absorbed with existing resource.

DESE provided the following information from **Office of Administration – Information Technology Services Division (OA – ITSD)**:

OA – ITSD estimates that in order to accomplish the requirements of this proposal, programming and storage would need to be enhanced within DESE. Automation will be required to share data between DESE, Department of Health and Senior Services, Department of Public Safety, Department of Corrections, and Department of Mental Health. Additional work by the licensure staff would be required as well.

ASSUMPTION (continued)

Currently the certificated and non-certificated school employees are not always kept in the same data storage area. Because of outdated and unsupported software, a new system would need to be developed to accomplish the goal of verifying all employees are on the Family Care Safety Registry and Access Line (FCSR) system. That system is estimated at \$1.5 million. This system also would accomplish the goal of verifying the appropriateness of Social Security Numbers and gather information from national clearing houses for infractions in other states.

The machines on which the current data are stored are 7 to 8 years old, which is twice the expected life cycle. A new machine would cost \$25,000 and would need upgraded storage capability and licenses at an additional cost of approximately \$5,000. A three to four year replacement cycle is necessary to ensure the integrity of the data on the machine. The cost of this could be averaged out each year to approximately \$9,000 (this includes the replacement and licensing costs).

Due to increased demands on OA – ITSD staff at DESE, it is requested that an additional 2 FTE Computer Information Technician (each at \$40,308 per year, plus fringe benefits) be added to ensure support and future changes to this system receive the attention deserved.

The initial cost of verifying that all school employees are registered in the FCSR will be approximately \$2,205,000 (\$9 per person for 120,000 certified teachers plus another 125,000 non-certified school employees). An annual cost of \$72,000 for an additional 6,000 to 8,000 new hires is anticipated. In order to accomplish these requirements, DESE will require 1.5 FTE administrative assistant (each at \$31,560 per year, plus fringe benefits).

DESE estimates the total cost of the proposal to be approximately \$2.3 million in FY 10, and approximately \$225,000 in subsequent years.

Oversight assumes, pursuant to §168.133.3, the applicant shall pay the fee for the state and federal criminal history record checks pursuant to §43.530, and §210.900 to 210.936. Therefore, Oversight has not included the cost for the criminal history record checks in the fiscal note.

Officials from the **Department of Health and Senior Services (DOHSS)** assume the Family Care Safety Registry (FCSR) will be required to process worker registrations submitted by public school staff that have contact with students. This will require approximately 208,029 workers to initially be registered as well as 12,000 staff on an annual basis who are newly hired or who change positions in the public school system. In addition, officials from DESE indicated that it will utilize the FCSR in order to perform the annual screening of certified staff, with local schools responsible for the submission of the annual screening requests for non-certified staff.

ASSUMPTION (continued)

DOHSS assumes the provisions of §168.133 will impact Family Care Safety Registry Registrations (a registration is an individual's initial entry into the Family Care Safety Registry which establishes his/her record and stores the relevant data in the system).

Based on an estimate provided by the Missouri Public School Retirement System/Public Education Employees Retirement System (PSRS/PEERS), there are 83,029 certificated and temporary certificated staff in their active membership. DESE estimates there are 125,000 non-certified public school staff for a total of 208,029 certified and non-certified staff to be registered with the FCSR. Based on information provided by DESE, 4,000 new teachers will graduate in-state annually and an additional 4,000 teachers will move or transfer to Missouri schools annually. Based on information from PSRS/PEERS, DHSS assumes that the number of non-certified staff will increase 3.2 percent annually ($125,000 \times 3.2 \text{ percent} = 4,000$). This will require an estimated 8,000 certified staff and 4,000 non-certified staff to be registered with FCSR on an ongoing basis.

The FCSR anticipates there will be an initial effort to register all current certificated and non-certificated employees (208,029) in order to provide background screenings on an ongoing/annual basis. Historically, 30 percent of registrations are performed online and 70 percent are processed manually. Assuming that holds constant, 62,409 individuals will register online resulting in minimal work by FCSR for these registrations. The remaining 145,620 individuals will require manual processing that is more labor intensive. In order to meet the demand for processing registrations, DHSS plans to hire temporary FTEs to process the initial registrations. These staff will not be needed on an ongoing basis since the number of new registrations is estimated to decrease to 12,000 annually after the first year. DHSS estimates each temporary FTE will work no more than 1,040 hours and process 5,000 registrations each resulting in the need to hire 29 temporary FTE ($145,620/5,000 = 29$). Based on \$16.07 per hour in wages for these staff, (HPR II salary) \$484,671 ($29 \times \$16.07 \times 1,040$) in one-time costs will be needed to pay wages for these FTEs. These staff will be housed in existing space, work after hour shifts, and use existing equipment and furniture. DHSS will also need one HPR II on an ongoing basis to process the annual 12,000 new registrations related to turnover and new staff entering the public school system.

DOHSS assumes the following impact for the FCSE Background Screenings (a background screening is an inquiry made of the Family Care Safety Registry accessing existing records and retrieving data concerning an individual):

DESE is required in §168.133, RSMo to facilitate the annual processing of background screenings to include criminal history, Sex Offender Registry, and child abuse/neglect searches.

ASSUMPTION (continued)

Previously the Missouri State Highway Patrol (MHP) processed criminal history and sex offender searches at no cost to DESE. However, MHP has changed their policy and if DESE continues to utilize the MHP in this manner, the cost to DESE will be \$2,080,290 annually ($\$10.00 \times 208,029$). As a result of this proposal, DESE informed DOHSS they plan to conduct these annual background screenings using the FCSR as it also incorporates the required child abuse/neglect search. DOHSS plans to modify the existing computer software to utilize batch processing in conjunction with the existing web application for the background screening process to expedite processing and minimize the need for additional ongoing staff. DOHSS estimates that DESE will utilize the electronic batch submission process to obtain updated screenings on the certified staff. Historically, 10 percent of the screenings submitted through the electronic batch processing ($83,029 \times .10 = 8,303$) require review by FCSR staff to determine an accurate match. Non-certified staff of 125,000 will not be batch submitted and will therefore require manual processing. This will require a total of 133,303 ($8,303 + 125,000$) screenings requiring manual processing. DOHSS estimates that one HPR II FTE and 0.5 OSA FTE are required to process 12,000 screening manually. Therefore 11 HPR II FTE's and six OSA FTE's ($133,303 / 12,000 = 11.11$) rounded down to 11) will be required to process background screenings annually.

In addition, each individual screened and their employer receives a letter notifying them of their registration, as well as their background screening results. DOHSS estimates the mailing of each notification will cost \$0.335 and therefore a request is included for the postage costs associated with the mailing of 880,116 result letters in the first fiscal year of implementation [$208,029$ current staff + $12,000$ new employees = $220,029 \times 4$ letters (a registration letter to the employer and the registrant and a screening letter to the employer and registrant)] and 464,058 in subsequent years [$(208,029 \text{ current staff} \times 2 \text{ screening letters}) + (12,000 \text{ new employees} \times 2 \text{ registration letters} \times 2 \text{ screening letters})$]. A three percent inflationary factor is applied to Fiscal Year 2011 and Fiscal Year 2012 to cover anticipated increase in postage costs.

DOHSS provided the following **Office of Administration-Information Technology Services Division (OA-ITSD)** costs:

Support from OA-ITSD will be needed to modify the existing database used by DOHSS, FCSR. The proposed language states the MHP, DOHSS, the Department of Social Services, and DESE shall develop procedures that permit an annual check of employed persons holding current active certificates under §168.021 against criminal history records in the central repository under §43.530, the sexual offender registry, and child abuse central registry under §210.900 to 210.936. DESE shall facilitate the development of procedures for school districts to submit personnel information annually for persons employed by the school districts who do not hold a

ASSUMPTION (continued)

current valid certificate who are required by subsection 1 of this section to undergo a criminal background check, sexual offender registry check, and child abuse central registry check.

An interface with a web-based system currently in use by the MHP will need to be modified. The FCSR plans to verify registration of teaching staff through a batch process. OA-ITSD resources would be required to initially setup the batch process. On-going funds will be needed to complete the task annually once the batch process has been established.

COST CATEGORY	FIRST YEAR (10 Months)	ONGOING
Consultant cost for analysis, design development, testing, and implementation of modification needed to collect and store data.	\$71,760	\$3,000
FTE - Computer Information Technology Specialist II (0.25 FTE) – to provide project management, development support and administration/maintenance of application.	\$14,304 (.25 FTE for 12 months)	\$0
Additional State Data Center charges due to increased volume.	\$12,000	\$12,000
TOTAL	\$98,064	\$15,000

Oversight has, for fiscal note purposes only, changed the starting salary for the Health Program Rep II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight assumes the FTE would be housed in existing DHSS facilities. Therefore, the fiscal note includes no rent or janitor/trash/utilities expenses.

Oversight assumes \$168,133.4 of the proposal requires DESE to facilitate an annual check of employed persons holding current active certificates against criminal history records in the central repository under §43.530, the sexual offender registry under §589.400 to 589.475, and child abuse central registry under §210.900 to 210.936. **Oversight** assumes these required

ASSUMPTION (continued)

annual checks can be conducted in the manner they are currently being conducted. Therefore, **Oversight** assumes no ongoing background screenings will be conducted through the FCSR and Oversight has included no cost for the ongoing background screenings.

Oversight assumes DOHSS would be mailing notification to regarding 220,029 new registrants in the first year and 12,000 new registrants in subsequent years.

Oversight assumes OA-ITSD (DOHSS) is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes OA-ITSD (DOHSS) would absorb the information technology-related duties within existing resources. Therefore, **Oversight** has included no cost for the 0.25 FTE Computer Information Technology Specialist II. **Oversight** has adjusted the State Data Center charges for FYs 2011 and 2012 to reflect approximately 12,000 new registrations per year. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOHSS) could request funding through the appropriation process.

Oversight assumes §168.133.4 of the proposal requires DESE to facilitate an annual check of employed persons holding current active certificates against criminal history records in the central repository under Section 43.530, the sexual offender registry under §589.400 to 589.475, and child abuse central registry under §210.900 to 210.936. **Oversight** assumes these required annual checks can be conducted in the manner they are currently being conducted; therefore, **Oversight** assumes no information systems upgrades would be required by DESE for the background checks.

Oversight assumes OA – ITSD staff at DESE could absorb any increased duties that would be required by the proposal. Oversight assumes any significant increase in the workload of the OA – ITSD staff at DESE would be reflected in future budget requests.

Oversight assumes DESE would verify school employee registration in the FCSR. Oversight assumes DESE would require 1.5 FTE Administrative Assistants. **Oversight** has, for fiscal note purposes only, changed the starting salary for the Administrative Assistants to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

ASSUMPTION (continued)

§210.152

Officials from the **Department of Social Services - Children's Division** has determined fiscal impact on staffing needs as well as computer system programming needs to the FACES system. Assumptions are based on a two-year average of investigation conclusions for Fiscal Year 2008 and 2009.

STAFFING IMPACT

ONGOING/FUTURE IMPACT:

- The average number of investigations concluded per year is 22,250.
- The Division assumes 20% of the investigations concluded in the original year of investigation may be requested to be reopened.
- The Division also anticipates an additional 5% of those investigations, concluded in the original year of investigation, may be requested to be reopened in each subsequent year for three years.
- This results in an anticipated total of 35% of concluded investigations requested to be reopened in any given year on an ongoing basis beginning with fiscal year 2011.

ADDITIONAL FIRST YEAR/PRIOR YEAR IMPACT:

- The Division anticipates a higher number of requests to reopen investigations in the first year of implementation. Because there is no time limit on when a request may be made to reopen an investigation, the Division is assuming requests to reopen cases may be made in any of the past 14 years, prior to fiscal year 2008.
- In the first year of implementation of this bill, the Division anticipates 10% of the 3 previous years' concluded investigations will be requested to be reopened (fiscal years 2008, 2009, and 2010).
- The Division also expects 2% of the total investigations concluded in the 14 years prior to Fiscal Year 2008 will be requested to be reopened over a 3 year period.

ASSUMPTION (continued)

	Original Investigation Year							
	Previous 14 Years	FY08	FY09	FY10	FY11	FY12	FY13	Total
Total/Average Number of Investigations	322,000	21,720	22,780	22,250*	22,250	22,250	22,250	
Year Reinvestigation Requested								
FY10	2,147	2,172	2,278	2,225	4,450			13,272
FY11	2,147	1,086	1,139	1,113	1,113	4,450		11,047
FY12	2,147	1,086	1,139	1,113	1,113	1,113	4,450	12,159
FY13				1,113	1,113	1,113	1,113	
FY14						1,113	1,113	
FY15							1,134	
Total/Average	6,440	4,344	4,556	5,563	7,788	7,788	7,788	12,159
Percent Reinvestigations Requested	2%	20%	20%	20%	35%	35%	35%	

*Projected average based on FY08 and FY09 concluded investigations

When the Division receives a request to reopen a case, the Division will follow a two part process:

First, Children's Service Specialists will be needed to screen the validity of the request to determine if the investigation was improperly conducted or if there is new information available. The Division estimates an average of 12,159 requests for cases to be reopened will be made each year. 40 cases per month or 480 annually can be screened per Children's Service Specialist, therefore 25 Children's Service Specialists are needed ($12,159 \div 480$).

ASSUMPTION (continued)

In addition to the 25 Children's Service Specialists needed for the screening process, the following FTE needed are calculated as follows:

- 4 Children's Services Supervisors
(25 workers / 7 supervisors per worker = 4 supervisors)
- 5 Office Support Assistants
(29 workers & supervisors / 4 professional staff per support * .75 ratio = 5 OSAs)
- 2 Senior Office Support Assistant
(29 workers & supervisors / 4 professional staff per support * .25 ratio = 2 SOSA)

As a result of the screening process, the Division estimates that only 50% or 6,080 (12,159 * .50) of the requests for reopened cases would result in a reinvestigation. Based on an average caseload of 12 investigations per worker per month (144 annually), the Division anticipates a staffing need of 42 additional Children's Service Workers to meet the provisions of this proposal. (Average annual investigations of 6,080 ÷ 144 reinvestigations completed per worker annually)

In addition to the 42 Children's Service Workers, the following FTE needs are calculated as follows:

- 6 Children's Services Supervisors
(42 workers / 7 supervisors per worker = 6 supervisors)
- 6 Office Support Assistants
(48 workers & supervisors / 6 professional staff per support * .75 ratio = 6 OSAs)
- 2 Senior Office Support Assistant
(48 workers & supervisors / 6 professional staff per support * .25 ratio = 2 SOSA)

A total of 92 FTE is needed. All staff will need to be on board at the beginning of FY11 so they are trained by the time this bill would go into effect.

FACES SYSTEM PROGRAMMING IMPACT:

This proposed legislation will require a case, which has already been closed, to be reopened in the electronic case file, creating significant changes to the existing database. Analysis of potential computer system programming changes as a result of this legislation indicates a total of 35,100 staff hours at a total cost of \$2,632,500 (35,100 hours x \$75.00 per hour = \$2,632,500). This projection includes technical analysis, development of business requirements, and system coding, development, and testing.

ASSUMPTION (continued)

§210.152.3

Officials from the **Department of Social Services - Division of Legal Services (DLS)** assume this section can reasonably be expected to require Children's Division to process thousands of requests to review and reopen cases. It is unknown how many cases the office of child advocate will request Children's Division to review. It is unknown how many unsubstantiated cases the office of child advocate will require Children's Divisions to reconduct investigations on.

The statute is not time limited, meaning that any party to an investigation could request a review at any time. This means that the Children's Division will be faced with a very large number of requests to review old cases within the first years after the bill was enacted. It is impossible to accurately estimate the total number of cases which the Children's Division would have to review.

The Children's Division concluded 22,687 investigations during FY 09.

The Children's Division estimates that an average of 12,159 requests for cases to be reopened will be made yearly. They also estimate that only 50% of these cases would be reopened based on their review. Thus 6,080 cases would result in a reinvestigation. It is assumed that in all these cases the person aggrieved by the Children's Division decision on review would have a right to appeal to the CANRB and/or to circuit court. Assuming that just 1% of these cases were appealed to Circuit Court, DLS would be required to handle an additional 61 cases. The average case load of a DLS attorney is 100 cases. In addition to the 61 new cases, an attorney would have to be available to advise CD on some cases, whether it is appropriate to reopen the investigation or not. DLS estimates that it will require an additional 1 FTE lawyer for DLS in the first year after enactment and each year thereafter. In addition, DLS anticipates that the costs of litigation may average approximately \$2,500 per case; however, there may be individual cases in which the costs exceed \$10,000. DLS estimates that litigation expenses could exceed \$155,000, depending on the number of cases and the complexity of the litigation.

DLS estimates the total cost of the proposal as it pertains to their division to be approximately \$60,000 in FY11 and approximately \$70,000 in subsequent years. This cost is split among the General Revenue and Federal Funds.

Section 556.037- (AMENDMENT ONE) Changes the the statute of limitations for a criminal prosecutions brought when a person under age 18 is a victim of a sex crime from twenty years to thirty years.. AGO assumes that, to the extent this change results in more prosecutions and

ASSUMPTION (continued)

convictions, AGO will have an increase in the number of appeals filed. AGO assumes that any increase in appeals will be modest and can be absorbed within existing resources, but if there is a significant increase in claims over time, the AGO may seek appropriation to adequately enforce the proposal.

Oversight assumes the AGO could absorb any increased costs generated as a result of the provisions in §162.068.3.

Officials from the **Office of State Courts Administrator** state this section will have no fiscal impact on the Courts.

Officials from the **Department of Corrections (DOC)** state the changes in this section of the proposed legislation do not impact the DOC's original response.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** state this section will have no fiscal impact on their agency.

Officials from the **Department of Social Services (DOS)** state this amendment does not change the fiscal impact to the DOS that was submitted for previous versions of the proposal.

In response to a previous version of this proposal, officials from the **Blue Springs and Parkway School District** stated this proposal will have no fiscal impact on their respective districts.

Officials from the **Jefferson City Police Department** and **Boone County Sheriff's Department** state this proposed legislation will have no fiscal impact on their respective departments.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Cost – Department of Elementary and Secondary Education (DESE)</u>			
Personal Service (1.5 FTE)	(\$34,484)	(\$42,623)	(\$43,901)
Fringe Benefits	(\$16,770)	(\$20,728)	(\$21,349)
Equipment and Expense	(\$3,991)	(\$1,766)	(\$1,819)
<u>Total Costs – DESE</u>	(\$55,245)	(\$65,117)	(\$67,069)
FTE Change – DESE	1.5 FTE	1.5 FTE	1.5 FTE
<u>Cost – Department of Health and Senior Services (DHSS)</u>			
Personal Service (temporary staff - 29)	(\$484,671)	\$0	\$0
Personal Service (1 FTE)	(\$27,686)	(\$34,220)	(\$35,247)
Fringe Benefits	(\$14,519)	(\$17,945)	(\$18,484)
Equipment and Expense	(\$308,300)	(\$25,743)	(\$26,514)
<u>Total Cost – DHSS</u>	(\$835,176)	(\$77,908)	(\$80,245)
FTE Change – DHSS	1 FTE	1 FTE	1 FTE
<u>Cost – Department of Social Services – Children’s Division (DOS) (\$210.152)</u>			
Personal Service (66.79 FTE)	(\$2,129,468)	(\$2,193,352)	(\$2,259,153)
Fringe Benefits	(\$1,116,693)	(\$1,150,194)	(\$1,184,700)
Equipment and Expense	(\$961,529)	(\$489,060)	(\$503,732)
FACES System Changes	(\$1,911,195)	\$0	\$0
<u>Total Cost – DOS (\$210.152)</u>	(\$6,118,885)	(\$3,832,606)	(\$3,947,585)
FTE Change – DOS (\$210.152)	66.79 FTE	66.79 FTE	66.79 FTE
<u>Cost – DOS – Legal Services Division (LSD) (\$210.152)</u>			
Personal Service (1 FTE)	\$18,047	\$22,315	\$22,984
Fringe Benefits	\$9,464	\$11,702	\$12,053
Equipment and Expense	\$5,858	\$5,021	\$5,172
<u>Total Cost – LSD</u>	\$33,369	\$39,037	\$40,208
Net FTE Change – DLS	1 FTE	1 FTE	1 FTE

**ESTIMATED NET EFFECT ON
 GENERAL REVENUE FUND**

	<u>(\$7,042,675)</u>	<u>(\$4,014,668)</u>	<u>(\$4,135,107)</u>
Estimated Net FTE Change for General Revenue	70.29 FTE	70.29 FTE	70.29 FTE
<u>FISCAL IMPACT - Federal Government</u>	<u>FY 2011</u> <u>(10 Mo.)</u>	<u>FY 2012</u>	<u>FY 2013</u>

FEDERAL FUNDS

Cost – DOS – Children’s Division (DOS)
(§210.152)

Personal Service (25.21 FTE)	(\$803,684)	(\$827,794)	(\$852,628)
Fringe Benefits	(\$421,452)	(\$434,095)	(\$447,118)
Equipment and Expense	(\$362,891)	(\$184,576)	(\$190,114)
FACES System Changes	<u>(\$721,305)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Cost – (DOS) (§210.152)</u>	<u>(\$2,309,332)</u>	<u>(\$1,446,465)</u>	<u>(\$1,489,860)</u>
Net FTE Change – DOS	25.21 FTE	25.21 FTE	25.21 FTE

Cost – DOS – Legal Services Division
(LSD) (§210.152)

Personal Service (.44 FTE)	(\$14,179)	(\$17,533)	(\$18,059)
Fringe Benefits	(\$7,436)	(\$9,194)	(\$9,470)
Equipment and Expense	(\$4,603)	<u>(\$3,945)</u>	<u>(\$4,063)</u>
<u>Total Cost – LSD</u>	<u>(\$26,218)</u>	<u>(\$30,672)</u>	<u>(\$31,592)</u>
Net FTE Change - LSD	.44 FTE	.44 FTE	.44 FTE

**ESTIMATED NET EFFECT ON
 FEDERAL FUNDS**

	<u>(\$2,335,550)</u>	<u>(\$1,477,137)</u>	<u>(\$1,521,452)</u>
Estimated Net FTE Change for Federal Funds	25.65 FTE	25.65 FTE	25.65 FTE
<u>FISCAL IMPACT - Local Government</u>	<u>FY 2011</u> <u>(10 Mo.)</u>	<u>FY 2012</u>	<u>FY 2013</u>
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act creates the "Amy Hestir Student Protection Act." (Section 160.085)

SECTION 37.710 - This act grants the Office of the Child Advocate the authority to file any findings or reports of the Child Advocate regarding the parent or child with the court and to issue recommendations regarding the disposition of an investigation, which may be provided to the court and the investigating agency.

SECTION 160.261 - If a student reports alleged sexual misconduct by a teacher or other school employee to a school employee who is required to report to the Children's Division, the employee and the school district superintendent must forward the allegation to the Children's Division within twenty-four hours. Any reports made to the Children's Division must be investigated by the Division in accordance with Division procedures. The school district must not conduct an investigation for purposes of determining whether the allegations should be substantiated. A district may investigate the allegations for purposes of making a decision regarding the accused employee's employment.

A mandated reporter as described in the act, who is a school officer or employee, who fails to report, will be subject to a class A misdemeanor.

SECTION 160.262 - This act authorizes the Office of the Child Advocate to offer mediation services when requested by both parties when child abuse allegations arise in a school setting. No student, parent of a student, school employee, or school district will be required to enter into mediation. If either party does not wish to enter into mediation, mediation will not occur. Procedures for mediation are described in the act.

SECTION 162.014 - A registered sex offender, or a person required to be registered as a sex offender, is prohibited from being a school board member or candidate for school board.

SECTION 162.068 - By July 1, 2011, every school district must adopt a written policy on information that the district may provide about former employees to other public schools.

The act grants civil immunity to school district employees who are permitted to respond to requests for information regarding former employees under a school district policy and who

FISCAL DESCRIPTION (continued)

communicates only the information that the policy directs and who acts in good faith and without malice. If an action is brought against the employee, he or she may request that the Attorney General defend him or her in the suit, except as described in the act.

If a school district had an employee whose job involved contact with children and the district received allegations of the employee's sexual misconduct and as a result of such allegations or as a result of such allegations being substantiated by the Child Abuse and Neglect Review Board the district dismisses the employee or allows the employee to resign and the district fails to disclose the allegations in a reference to another school district or when responding to a potential employer's request for information regarding such employee, the district will be liable for damages and have third-party liability for any legal liability, legal fees, costs, and expenses incurred by the employing district caused by the failure to disclose such information to the employing district.

When a school district employs a person who has been investigated by the Children's Division and for whom there has been a finding of substantiated from such investigation, the district must immediately suspend the person's employment. The district may return the person to his or her employment if the Child Abuse and Neglect Review Board's finding that the allegation is substantiated is reversed by a court on appeal. Nothing shall preclude a school district from otherwise lawfully terminating the employment of an employee about whom there has been a finding of unsubstantiated from such an investigation.

A school district that has employed a person for whom there was a finding of substantiated from a Children's Division investigation must disclose the finding of substantiated to any other public school that contacts it for a reference.

SECTION 162.069 - By January 1, 2011, every school district must develop a written policy concerning teacher-student communication and employee-student communications. Each policy must include appropriate oral and nonverbal personal communication, which may be combined with sexual harassment policies, and appropriate use of electronic media as described in the act, including social networking sites. Teachers cannot establish, maintain, or use a work-related website unless it is available to school administrators and the child's legal custodian, physical custodian, or legal guardian. Teachers also cannot have a nonwork-related website that allows exclusive access with a current or former student.

By January 1, 2011, each school district must include in its teacher and employee training a component that provides information on identifying signs of sexual abuse in children and of

FISCAL DESCRIPTION (continued)

potentially abusive relationships between children and adults, with an emphasis on mandatory reporting. Training must also include an emphasis on the obligation of mandated reporters to report suspected abuse by other mandatory reporters.

SECTION 168.021 - In order to obtain a teaching certificate, an applicant must complete a background check as provided in section 168.133.

SECTION 168.071 - The crimes of sexual contact with a student while on public school property as well as second and third degree sexual misconduct are added to the offenses for which a teacher's license or certificate may be revoked.

SECTION 168.133 - A school district's criminal background check on school employees must include a search of publicly available information in an electronic that displays information through a public index or single case display. School districts are responsible for conducting the criminal background check on bus drivers they employ. For drivers employed by a pupil transportation company under contract with the district, the criminal background check must be conducted through the Highway Patrol's criminal record review and must conform to the requirements of the National Child Protection Act of 1993, as amended by the Volunteers for Children Act.

This act changes, from two to one, the number of sets of fingerprints an applicant must submit for a criminal history background check. An employee employed after July 1, 2011, who is required to undergo a criminal background check must register with the family care safety registry. The Department of Elementary and Secondary Education must facilitate an annual check for employees with active teaching certificates against criminal history records in the central repository, sexual offender registry, and child abuse central registry. The Missouri Highway Patrol must provide ongoing electronic updates to criminal history background checks for those persons previously submitted by the Department of Elementary and Secondary Education.

A school district may conduct a new criminal background check and fingerprint collection for a newly hired employee.

SECTION 210.135 - Third-party reporters of child abuse who report an alleged incident to any employee of a school district are immune from civil and criminal liability under certain circumstances.

FISCAL DESCRIPTION (continued)

SECTION 210.145 - The Children's Division must provide information about the Office of the Child Advocate and services it may provide to any individual who is not satisfied with the results of an investigation.

SECTION 210.152 - The Children's Division may reopen a case for review at the request of any party to the investigation if information is obtained that the investigation was not properly conducted under the provisions of Chapter 210, RSMo, or if new information becomes available. For any case previously investigated by the Children's Division for which there was a finding of unsubstantiated, the Children's Division must reconduct its investigation one time at the request of the Office of the Child Advocate if the Child Advocate has reasonable suspicion of wrongdoing. However, the Children's Division must not reopen an investigation if a court of law has entered a final judgment on the matter.

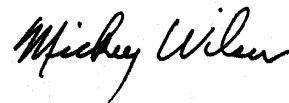
SECTIONS 210.915 and 210.922 - This act adds the Department of Elementary and Secondary Education to the list of departments that must collaborate to compare records on child-care, elder-care, and personal-care workers, including those individuals required to undergo a background check under Section 168.133 and who may use registry information to carry out assigned duties.

SECTION 556.037 (AMENDMENT ONE)- Notwithstanding the provisions of §556.036, prosecutions for unlawful sexual offenses involving a person eighteen years of age or under must be commenced within thirty years after the victim reaches the age of eighteen unless the prosecutions are for forcible rape, attempted forcible rape, forcible sodomy, kidnaping or attempted forcible sodomy in which case such prosecutions may be commenced at any time.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Office of State Courts Administrator
Department of Labor and Industrial Relations
Department of Mental Health
Office of Secretary of State
 Administrative Rules Division
Department of Corrections
Office of State Public Defender
Office of Administration
 Administrative Hearing Commission
 Office of Child Advocate
Office of Prosecution Services
Department of Public Safety
 Office of the Director
 Missouri State Highway Patrol
Office of Attorney General
Department of Health and Senior Services
Department of Social Services
School Districts
 Parkway
 Blue Springs
Local Law Enforcement
 Boone County Sheriff's Department



Mickey Wilson, CPA
Director
April 15, 2010